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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/462,995 01/14/00 LANGLOIS

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EXAMINER

HM22/0313

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MATER, I

ART UNIT

PAPER NUMBER

1623

DATE MAILED:

03/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/462,995

Applicant(s)
Langlois

Examiner
Leigh Maier

Group Art Unit
1623



☒ Responsive to communication(s) filed on Jan 12, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 22-28, 30, and 32-44 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-28, 30, and 32-44 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Status of the Prosecution

Claims 29, 31, and 42 have been canceled. Claims 22, 23, 30, 32, 39, 43, and 44 have been amended. Claims 22-28, 30, 32-41, and 43-45 are pending and under examination. Any objection or rejection not expressly repeated in this action has been withdrawn. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 U.S.C. § 103

Claims 22-28, 30, 32-41, and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doherty et al (EP 0765939) and Patton (GB 1,080,248).

The amended claims are drawn to a three-component composition comprising xanthan gum, a compound which increases the ionic strength of the fluid, and at least one fluid loss control agent. The amendment precludes the use of xanthan gum that is incidentally deacetylated as in crosslinking processes. The claims are further drawn to a process for using the fluid in drilling operations.

Applicant's arguments filed January 12, 2001 have been fully considered but they are not persuasive. Applicant's arguments with regard to anticipation by Doherty or Patton are moot in light of the amendment. Applicant argues further that the present three-component fluid would not be obvious because Doherty teaches in the examples "...that the xanthan gum solution can

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withstand a maximum temperature of 80°C.” The examiner respectfully disagrees with applicant’s characterization of Doherty. Doherty simply states that viscosities were measured over the temperature range of 25° to about 80°C. Doherty does not indicate that 80°C is the maximum temperature that the composition can withstand.

As set forth in the previous Office action, Doherty discloses a solution of non-acetylated xanthan, 1000 ppm of xanthan in 50,000 ppm of NaCl brine. (See p 10, example 7) The non-acetylated xanthan is disclosed as a viscosifying agent for aqueous solutions, particularly for use in oil recovery. Doherty does not teach the use of a fluid loss control agent. Doherty does not teach the use of other additives recited in dependent claims. However, Doherty does suggest the use of additives typically used in solutions with utility in the field of enhanced oil recovery.

Patton et al also disclose the use of additives: weighting compounds such as barium sulfate; mineral colloids such as bentonite; and fluid loss control agents such as carboxymethylcellulose. (Page 3, lines 89-128)

It is obvious to combine ingredients which have been separately employed for a particular purpose in order to obtain the expected combination of benefits. It is a well established proposition of patent law that no patentable invention resides in combining old ingredients of known characteristics where the results obtained thereby are no more than the additive effect of the ingredients.

With regard to temperature recited in the process, as discussed above, Doherty is silent on the maximum temperature that the fluid taught in the reference can withstand. The independent

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process claim, claim 39, recites using the present fluid “. . . at a temperature of *at most* 140°C. . .” (Emphasis added) Even if Doherty’s fluid *is* only serviceable up to 80°C, a fact that has not been established, the claim does not preclude the process at a temperature lower than 140°C.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Examiner's hours, phone & fax numbers and other useful information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (703) 308-4525. The examiner can normally be reached on Monday-Friday 8:00 to 4:30 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gary Geist (703) 308-1701, may be contacted. The fax phone number for Group 1600, Art Unit 1623 is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more.

Secure and confidential access to patent application status is now available; see <http://www.uspto.gov/ebc/index.html> for more information.

Applicant(s) may pay patent maintenance fees, non-filing application fees and maintain USPTO accounts through <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm>

Leigh C. Maier
Patent Examiner
March 12, 2000


GARY GEIST
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